

MISSOURI DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS

MISSOURI'S WORKPLACE

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Employers Respond Favorably to Contributions' Survey

By Cindy Guthrie and Maurine McAboy, Division of Employment Security

The Division of Employment Security surveyed employers to ascertain how they view the services provided by Contributions' staff members. The survey questioned the quality, accessibility and ease of understanding of information. It also asked for input on services being considered for the future. Surveys were mailed to approximately 129,000 employers with the second quarter 2001 contribution and wage reports. Employment Security received approximately 15,000 responses to this survey.



Gracia Backer, Division of Employment Security director said, "I am pleased with the positive results of the survey. I am especially happy to see individual employees

recognized for the fine work they do for the state of Missouri." Employers' responses show support for plans being developed by the Division and Department of Labor and Industrial Relations to allow employers to submit forms and make electronic payments via the Internet.

The following are the results of the survey:

- ◆ 97.8 % of the employers responded that the Division representatives were courteous or very courteous.
- ◆ 92.9% of the employers advised that the Division representatives are timely or very timely.
- ◆ An impressive 98.3% responded that the representative answered questions in a satisfactory or very satisfactory manner.
- ◆ 94.3% perceived the Division representative to be helpful or very helpful.
- ◆ 9.5% of employers responded that they had accessed the Division's website. 82.5% of those who had accessed the website found the information easily accessible and 87.4% found the information helpful.
- ◆ 38.9% of the employers advised that they would be interested in completing the quarterly contribution and wage report by the Internet and 31% answered that they would like to make their payment electronically as well.
- ◆ 42.5% said they would like to complete other forms, such as registration, status change and adjustment forms via the Internet.



Transient Employer Requirements

Missouri Law defines a “transient employer” as a non-resident employer who transacts business in Missouri for less than 24 consecutive months. An exception is made for employers located in a county of another state which is contiguous with Missouri if the employer has worked in Missouri for at least 60 cumulative days over 12 months during the preceding two calendar years and if such employers obtain a tax clearance from the Missouri Department of Revenue and the Missouri Division of Employment Security.

Transient employers are required to file a bond or other security with the Missouri Department of Revenue to cover employee withholding and tax obligations and provide proof of workers’ compensation insurance and unemployment insurance

contributions, if required.

In 1997, the law was amended to require that the prime contractor which engages a transient employer subcontractor to perform public or private construction work in Missouri obtain certain proofs of compliance. The prime contractor must require the out-of-state “transient” sub to submit the following before performing any work on a Missouri project.

- ◆ Proof that the transient subcontractor has filed a financial assurance instrument with the Missouri Department of Revenue to cover Missouri tax obligations.
- ◆ Proof that the transient subcontractor holds a valid certificate of insurance for workers’ compensation coverage in Missouri. If the subcontractor is self-insured, proof must be submitted to the prime contractor that the Missouri Division of Workers’ Compensation has approved such self-insurance.

The prime contractor is excused from obtaining such proofs of compliance if the transient subcontractor has previously submitted such proofs to a state agency or political subdivision for which the work is performed, as a

condition of being qualified to perform work for the agency or political subdivision.

The 1997 amendments also require cities or counties issuing building permits to require out-of-state contractors to show proof of compliance with transient employer requirements, before issuing the permit. To assist in-state contractors and political subdivisions in identifying companies to check the Missouri Department of Revenue is required to publish a list of known “transient employers” in the Missouri Register on a quarterly basis.

Missouri contractors subcontracting with out-of-state companies and companies based in other states should be vigilant as to compliance with “transient employer” requirements and potential increased scrutiny by labor and the Missouri Department of Revenue, Division of Workers’ Compensation and Division of Employment Security. The most recent quarterly “Transient Employer” list published by the Department of Revenue can be accessed at www.dor.state.mo.us/tax/transemp.pdf.

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Did You Know...

Tracking Complaints About Transient Employers in Missouri

When The Missouri Division of Employment Security receives a complaint about a transient employer who is not meeting Missouri unemployment insurance tax obligations, they also check with the Missouri Division of Workers’ Compensation’s Fraud and Noncompliance unit to verify that the employer has workers’ compensation coverage. If not, an investigation is done to determine if the employer is violating Missouri workers’ compensation law by not providing the insurance to their employees.

Missouri Workers' Compensation Program Takes Proactive Approach to Noncompliance Investigations

In an effort to ensure employees have workers' compensation coverage in the event of a work related injury and to provide a level economic playing field for all employers, the Missouri Division of Workers' Compensation has created a new "proactive" initiative. Data is collected from the Missouri Division of Employment Security to identify construction trade employers with one or more employees and all other employers with five or more employees. That data is compared with workers' compensation proof of coverage data. This allows the Division of Workers' Compensation to identify employers who are required by Missouri law to carry workers' compensation coverage and are not. The Division's Fraud and Noncompliance Unit can access that data by industry type and either zip code or county. The unit then periodically inquires against that database and initiates noncompliance investigations on those employers. A letter is sent to those employers requiring them to provide proof of coverage or contact the unit to explain why they are not required to provide coverage. Investigations are closed, with no action taken against employers, when they are found to have insurance or for other reasons are compliant with the law. Those employers that do not provide coverage and are required to by law, are referred to the Office of the Missouri Attorney General for possible prosecution.

In Missouri, employers must provide workers' compensation insurance coverage for their employees if:

- ◆ They have five or more employees
- ◆ They are a construction industry employer who erects, demolishes, alters or repairs improvements and have one or more employees.

Failure to insure liability in accordance with this law is a Class A misdemeanor. The penalty for this can be twice the annual premium the employer would have paid or \$25,000 whichever is greater.

Safe Jobs For Youth

Each spring we renew our commitment to keeping our state's youth safe in the workplace.

By participating in national Safe Jobs for Youth month each May, the Department of Labor and Industrial Relations and our Division of Labor Standards hope to move workplace safety issues to the forefront and create a new focus on preventing teen injuries in the workplace.



Summer is now upon us, and many young people are already out in the workplace. Some may be unaware of potential hazards on the job, and will not know about the laws designed to protect them in working environments.

As employers, we hope you will make a sincere effort to help us keep our young workers safe. To help you protect our teens, our Division of Labor Standards offers this Top 10 safety list for employers of young people.

- ◆ Make sure working youth know their workplace rights and responsibilities.
- ◆ Make sure working youth get the proper training for their job, especially for emergencies.
- ◆ Make sure youth are properly supervised while performing their job.
- ◆ Youth should not cross state lines or travel more than 10 miles to do their job.
- ◆ Don't pressure a young worker to do a task unless he or she feels comfortable and confident doing it.
- ◆ Know the prohibited occupations for youth in Missouri.
- ◆ Know the work hour limitations/restrictions for youth in Missouri.
- ◆ Be sure you have the appropriate documentation (work certificate or permit).
- ◆ Make sure young workers know the proper person to call if they have a problem at work.
- ◆ Be sure young workers' parents know where they work and what they do.

For more information on Missouri child labor laws, you may contact the Division of Labor Standards at (800) 475-2130 or visit them on the web at www.dolir.state.mo.us/lr.

Director's Comments

Workers' Comp Fraud Unit Investigations Lead to Conviction of 12 Employers and Three Employees

The Missouri Division of Workers' Compensation's Fraud and Noncompliance Unit has conducted investigations leading to the conviction of 12 Missouri employers and three employees since November 1, 2001.

Details of some of these cases:

Cape Girardeau County

A Cape Girardeau County resident pled guilty February 25, 2002 for making a false statement concerning her alleged workers' compensation injury. She claimed to have injured her back while lifting a box at work. The Fraud and Noncompliance Unit's investigation revealed that the pain was the result of an automobile accident, which occurred five years earlier. The state Attorney General's office prosecuted. The defendant received a suspended sentence, probation and community service and had to pay court costs.

Stoddard County

The owner of numerous in-home care facilities around the state, as well as his corporation, pled guilty February 21, 2002 to charges related to the failure to provide workers' compensation insurance for employees. The defendant had been previously investigated for failure to have workers' compensation insurance and had been referred to the St. Louis County prosecutor's office. The corporation was fined \$25,000. The owner was placed on probation and must pay for any workplace injuries during the noncompliance period.

St. Charles County

The owner of a dry cleaning business pled guilty to charges stemming from failure to provide workers' compensation insurance for employees. He received two years probation and a fine of \$2,000.

An employee pled guilty to charges stemming from a fraudulent workers' compensation claim. Although the worker had a legitimate injury in August 2000, an investigation revealed that the defendant provided false and misleading statements to the employer and medical provider in an attempt to get benefits he was not entitled to. He received probation and was ordered to perform community service.

Jefferson County

A Jefferson County resident pled guilty to charges stemming from a fraudulent claim for workers' compensation benefits. Although she claimed she fractured her hand at work, an investigation revealed that the injury had occurred at her home. A co-worker/boyfriend helped her submit the false claim by alleging to have witnessed the work injury. The defendant received a suspended sentence, probation and was ordered to reimburse the hospital \$1,660 and the insurance company \$643.99.

St. Louis County

The owner of a home repair business pled guilty to failure to provide workers' compensation insurance for employees. The business had been in operation since the late 1980's and had never provided workers' compensation insurance. The owner received a suspended sentence, was placed on probation for two years, required to maintain insurance, reimburse the Second Injury Fund for any award made while uninsured, assessed a fine of \$5,000 and required to reimburse a workplace injury victim for medical bills.

Shannon County

The owner of a sawmill pled guilty to charges of failing to insure his employees for workers' compensation. He received a suspended sentence and probation. He was also required to pay a \$7,000 fine and court costs, as well as an award to an injured worker.

In addition to these cases, 30 employers agreed to pay fines totaling \$79,815.50 and signed deferred prosecution/hold harmless agreements between November 1, 2001 and March 1, 2002. Under this agreement, the employer must agree to purchase workers' compensation coverage for its employees, waive the statute of limitations for any claims that arose during the period the employer was uninsured, pay a fine and hold the state's Second Injury Fund harmless for any known or unknown injuries during the noncompliance period.

The Fraud and Noncompliance Unit of the Missouri Division of Workers' Compensation is responsible for investigating all allegations of workers' compensation fraud and noncompliance throughout the state. The unit investigates allegations of fraud by employees, employers, attorneys, insurers or physicians. Noncompliance is the failure by employers to carry workers' compensation insurance, or to post notice of workers' compensation at the workplace. Appropriate cases of fraud and noncompliance are referred to the state Attorney General's Office for prosecution.

If you have questions about workers' compensation fraud or noncompliance, or if you believe you have accurate information with regard to someone not complying with workers' compensation laws or someone who may have committed fraud, you may call or write to:

Department of Labor and Industrial Relations
Division of Workers' Compensation
Fraud and Noncompliance Unit
P.O. Box 1009
Jefferson City, MO 65102-1009
Telephone: (800) 592-6003
FAX: (573) 526-1441

Workplace Training and Seminars Available

Do you need a speaker for a seminar or business meeting? Are you interested in training for your company?

The Missouri Department of Labor and Industrial Relations offers speakers that can provide seminars and training for your business or organization on the following topics:

- ◆ Disability Awareness
- ◆ Human Rights Issues
- ◆ Child Labor Laws
- ◆ Prevailing Wage Laws
- ◆ Workers' Compensation
- ◆ Americans with Disabilities Act (ADA)
- ◆ OSHA Regulations and Inspection Procedures
- ◆ On-Site Safety and Health
- ◆ Mine and Cave Safety and Health
- ◆ Unemployment Insurance
- ◆ Unemployment Contributions/Taxes
- ◆ Sexual Harassment

For more information or to schedule a speaker please contact the office of Public Affairs at (573) 751-7500 or by email at jvindemann@dolir.state.mo.us.

If you have a question about workplace safety or a workers' compensation issue that you would like answered by one of our experts, send it to:

Ask Leon
Attn: Leon Lawson
Missouri Workers' Safety Program
P.O. Box 58
Jefferson City, MO 65102-0058
Fax: (573) 526-1436
E-mail: llawson@dolir.state.mo.us

Visit Us on the Web

The Missouri Department of Labor and Industrial Relations' web site contains helpful information on Missouri unemployment insurance and workers' compensation programs, child labor law and wage and hour information, as well as information on the annual wage order, services provided for individuals who have experienced discrimination on the job, and assistive technology devices for disabled workers. Visit us at <http://www.dolir.state.mo.us>.

Show Me Safety

Refresher Training Required for Powered Industrial Truck Operators

OSHA revised its requirements for powered industrial truck operator training in 1999 and issued new training requirements for operators. The new requirements are intended to reduce the number of injuries and deaths that occur as a result of inadequate operator training. They apply to all industries (general industry, construction, shipyards, marine terminals and longshoring operations) in which the trucks are being used, except agricultural operations. Employees who receive the training and evaluation can be authorized to operate the kind of powered industrial truck for which they have been trained for up to three years.

Since it has been three years since the revised standards became effective, many powered industrial truck operators are now in need of the required refresher evaluation and training. This refresher training must be

provided at least every three years, and when any of the following occurs:

- ◆ There is an accident or near miss.
- ◆ The operator is observed driving in an unsafe manner.
- ◆ The operator received an evaluation that revealed the operator is not operating the truck safely.
- ◆ The operator is assigned to drive a different type of truck.
- ◆ A condition in the workplace changes in a manner that could affect the safe operation of the truck.

For more information and access to training materials, visit OSHA's website at www.osha.gov/Training/PIT/pit_menu.htm.

HazCom Remains at the Top of the list of Most Often Cited Violations

OSHA has reported that its HazCom Standard (29 CFR, 1910.1200) was the most often cited violation during fiscal year 2000.

The HazCom Standard requires employers to identify chemical hazards, label containers, provide training to exposed employees, provide proper personal protective equipment (PPE), maintain material safety data sheets and conduct cradle to grave tracking of hazardous workplace chemicals. Nearly half of the citations in 2000 were designated as willful, serious or repeat violations making HazCom third on the top ten list of most serious violations in fiscal 2000.

OSHA Standards for Scaffolding (1910.451) and Fall Protection (1910.501) also rated high (in the top three) on both top ten lists.

The charts below list the most often and most serious citations issued by OSHA in fiscal 2000.

MOST OFTEN

OSHA Standard	Number
1. HazCom (1910.1200)	7,233
2. Scaffolding (1910.451)	7,134
3. Fall Protection (1910.501)	4,421
4. Respiratory Protection (1910.134)	3,971
5. Lockout/Tagout (1910.147)	3,875

6. Electrical Wiring (1910.305)	3,125
7. Machine Guarding (1910.212)	2,797
8. Powered Industrial Trucks (1910.178)	2,334
9. Electrical Systems (1910.303)	2,223
10. Mechanical Power Transmission (1910.219)	2,191

MOST SERIOUS

OSHA Standard	Number
1. Scaffolding (1910.451)	6,710
2. Fall Protection (1910.501)	4,143
3. HazCom (1910.1200)	3,619
4. Lockout/Tagout (1910.147)	3,023
5. Machine Guarding (1910.212)	2,541
6. Respiratory Protection (1910.134)	2,219
7. Electrical Wiring (1910.305)	2,152
8. Mechanical Power Transmission (1910.219)	2,003
9. Powered Industrial Trucks (1910.178)	1,656
10. Excavation (1910.651)	1,528

Information and assistance regarding OSHA Standards can be obtained from your workers' compensation insurance carrier or the Missouri Workers' Safety Program (MWSP). The MWSP can be reached at (573) 526-3504.

Free Workplace Safety and Health Consultations Available for Small Employers

The On Site Safety and Health Consultation Program of the Missouri Division of Labor Standards provides free and confidential help to employers in complying with federal OSHA regulations, and helps them provide a safe and healthy workplace for their employees by reducing injuries and illnesses. Upon request from an employer, trained industrial hygienists and safety consultants visit the workplace, inform the employer of problems found and make recommendations for elimination of those hazards.

These services may specifically include but are not limited to the following:

- ◆ Review of an employer's written Standard Specific Safety and Health Programs.
- ◆ Review of an employer's written Safety and Health Management Program.
- ◆ Review of an employer's OSHA 200 log for injury and illness trends.
- ◆ Evaluation of engineering controls as necessary.
- ◆ Exposure monitoring for such things as fumes, dusts, mists, vapors, noise and other potential hazards which may be present in the workplace.
- ◆ Identification of hazards in the workplace and a timetable to eliminate those hazards to employees.
- ◆ Work with employers whose type of business has been targeted by one of the OSHA Initiatives.

Qualifications for this Service

- ◆ Businesses must be located in the state of Missouri.
- ◆ Businesses must have 250 or fewer employees at any one site and less than 500 employees total.
- ◆ Businesses must complete and submit a Request Form. The form can be obtained by calling the Division of Labor Standards at (800) 475-2130 or can be accessed on their website at http://www.dolir.state.mo.us/lr/onsite/req_list.htm.
- ◆ Businesses must be privately owned to use this service.

Correction

In the Spring 2002 issue of Missouri's Workplace story "Frequently Asked Questions About the ADA" we made an incorrect statement about whether the ADA requires that employers consider mitigating measures when determining whether a person has a disability.

Revised guidelines dictate that in the determination of whether an individual has a current disability under the ADA must be made by considering any mitigating measures that a person uses to eliminate or reduce the effects of an impairment. Mitigating measures may include medication and assistive devices such as hearing aids, walkers or canes.

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Missouri Department of Labor and Industrial Relations

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Mission: The Department of Labor and Industrial Relations strives to provide employees with safe and healthy workplaces and ensures economic security for all Missourians by promoting equal access to jobs, enforcing anti-discrimination laws and awarding payment of compensation to those unemployed, injured at work and victims of crime.

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